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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-435

13 **GREGORY LEE DALES**
14 **P.O. Box 4207**
15 **Georgetown, CA 95634**
16 **Registered Nurse License No. 369163**
17 **Public Health Nurse Certificate No. 43545**
18 **Nurse Practitioner Certificate No. 6962**
19 **Nurse Practitioner Furnishing Certificate**
20 **No. 6962**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

21 **FINDINGS OF FACT**

22 1. On or about February 15, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her
23 official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board),
24 Department of Consumer Affairs (Department), filed Accusation No. 2012-435, against Gregory
25 Lee Dales (Respondent) before the Board. (Accusation attached as Exhibit A.)

26 2. On or about March 31, 1984, the Board issued Registered Nurse License No. 369163
27 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to
28 the charges brought in Accusation No. 2012-435. The license expired on December 31, 2011,
and has not been renewed. The lapse in licensure does not deprive the Board of authority to

1 institute or continue disciplinary proceedings pursuant to Business and Professions Code section
2 118(b).

3 3. On or about July 22, 1988, the Board issued Public Health Nurse Certificate No.
4 43545 to Respondent. The Public Health Nurse Certificate was in full force and effect at all times
5 relevant to the charges brought in Accusation No. 2012-435. The Public Health Nurse Certificate
6 expired on December 31, 2011, and has not been renewed. On or about April 1, 1994, the Board
7 issued Nurse Practitioner Certificate No. 6962 to Respondent. The Nurse Practitioner Certificate
8 was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-
9 435. The Nurse Practitioner Certificate expired on December 31, 2011, and has not been
10 renewed. On or about December 5, 1994, the Board issued Nurse Practitioner Furnishing
11 Certificate No. 6962 to Respondent. The Nurse Practitioner Furnishing Certificate was in full
12 force and effect at all times relevant to the charges brought in Accusation No. 2012-435. The
13 Nurse Practitioner Furnishing Certificate expired on December 31, 2011, and has not been
14 renewed. The lapse in licensure of these certificates does not deprive the Board of authority to
15 institute or continue disciplinary proceedings pursuant to Business and Professions Code section
16 118(b).

17 4. On or about February 15, 2012, Respondent was served by Certified and First Class
18 Mail copies of the Accusation No. 2012-435, Statement to Respondent, Notice of Defense,
19 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
20 and 11507.7) at Respondent's address of record which, pursuant to California Code of
21 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board,
22 which was and is: P.O. Box 4207, Georgetown, CA 95634.

23 5. Service of the Accusation was effective as a matter of law under the provisions of
24 Government Code section 11505, subdivision (c) and/or Business and Professions Code section
25 124.

26 6. Government Code section 11506 states, in pertinent part:

27 (c) The respondent shall be entitled to a hearing on the merits if the respondent
28 files a notice of defense, and the notice shall be deemed a specific denial of all parts
of the accusation not expressly admitted. Failure to file a notice of defense shall

1 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
2 may nevertheless grant a hearing.

3 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
4 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
5 2012-435.

6 8. California Government Code section 11520 states, in pertinent part:

7 (a) If the respondent either fails to file a notice of defense or to appear at the
8 hearing, the agency may take action based upon the respondent's express admissions
9 or upon other evidence and affidavits may be used as evidence without any notice to
10 respondent.

11 9. Pursuant to its authority under Government Code section 11520, the Board finds
12 Respondent is in default. The Board will take action without further hearing and, based on the
13 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
14 taking official notice of all the investigatory reports, exhibits and statements contained therein on
15 file at the Board's offices regarding the allegations contained in Accusation No. 2012-435, finds
16 that the charges and allegations in Accusation No. 2012-435, are separately and severally, found
17 to be true and correct by clear and convincing evidence.

18 10. Taking official notice of its own internal records, pursuant to Business and
19 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
20 and Enforcement is \$12,471.00, as of March 12, 2012.

21 DETERMINATION OF ISSUES

22 1. Based on the foregoing findings of fact, Respondent Gregory Lee Dales, has
23 subjected his Registered Nurse License No. 369163 to discipline.

24 2. The agency has jurisdiction to adjudicate this case by default.

25 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
26 Nurse License, Public Health Nurse Certificate, Nurse Practitioner Certificate and Nurse
27 Practitioner Furnishing Certificate, based upon the following violations alleged in the Accusation
28 which are supported by the evidence contained in the Default Decision Evidence Packet:

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1 a. Criminal Conviction based on Respondent's no contest plea to violating Penal Code
2 section 243.4(c), Sexual Battery by Fraud, a violation of Business and Professions Code section
3 2761(f).

4 b. Unprofessional Conduct based on sexual misconduct with a patient, a violation of
5 Business and Professions Code section 726.

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ORDER

IT IS ORDERED that Registered Nurse License No. 369163, Public Health Nurse Certificate No. 43545, Nurse Practitioner Certificate No. 6962 and Nurse Practitioner Furnishing Certificate No. 6962, heretofore issued to Respondent Gregory Lee Dales, are **REVOKED**.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 3, 2012.
It is so ORDERED July 5, 2012.



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

default decision_LIC.rtf
DOJ Matter ID:SA2011103165

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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ACCUSATION

Respondent.

20 Complainant alleges:

PARTIES

21 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
22 official capacity as Interim Executive Officer of the Board of Registered Nursing ("Board"),
23 Department of Consumer Affairs.

Registered Nurse License

24 2. On or about January 1, 1984, the Board issued Registered Nurse License Number
25 369163 to Gregory Lee Dales ("Respondent"). The registered nurse license was in full force and
26 effect at all times relevant to the charges brought herein and will expire on December 31, 2011,
27 unless renewed.

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1 **Public Health Nurse License**

2 3. On or about July 22, 1988, the Board issued Public Health Nurse License Number
3 43545 to Respondent. The public health nurse license was in full force and effect at all times
4 relevant to the charges brought herein and will expire on December 31, 2011, unless renewed.

5 **Nurse Practitioner Certificate**

6 4. On or about April 1, 1994, the Board issued Nurse Practitioner Certificate Number
7 6962 to Respondent. The nurse practitioner certificate was in full force and effect at all times
8 relevant to the charges brought herein and will expire on December 31, 2011, unless renewed.

9 **Nurse Practitioner Furnishing Certificate**

10 5. On or about December 5, 1994, the Board of Registered Nursing issued Nurse
11 Practitioner Furnishing Certificate Number 6962 to Respondent. The nurse practitioner
12 furnishing certificate was in full force and effect at all times relevant to the charges brought
13 herein and will expire on December 31, 2011, unless renewed.

14 **STATUTORY PROVISIONS**

15 6. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
16 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
17 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
18 Nursing Practice Act.

19 7. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
20 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
21 to render a decision imposing discipline on the license. Under Code section 2811, subdivision
22 (b), the Board may renew an expired license at any time within eight years after the expiration.

23 8. Code section 2761 states, in pertinent part:

24 The board may take disciplinary action against a certified or licensed
25 nurse or deny an application for a certificate or license for any of the following:

26 (a) Unprofessional conduct. . . . ,

27 (f) Conviction of a felony or of any offense substantially related to the
28 qualifications, functions, and duties of a registered nurse, in which event the record of
 the conviction shall be conclusive evidence thereof.

1 9. Code section 726 states:

2 The commission of any act of sexual abuse, misconduct, or relations with
3 a patient, client, or customer constitutes unprofessional conduct and grounds for
4 disciplinary action for any person licensed under this division, under any initiative act
referred to in this division and under Chapter 17 (commencing with Section 9000) of
Division 3.

5 This section shall not apply to sexual contact between a physician and
6 surgeon and his or her spouse or person in an equivalent domestic relationship when
that physician and surgeon provides medical treatment, other than psychotherapeutic
7 treatment, to his or her spouse or person in an equivalent domestic relationship.

8 **COST RECOVERY**

9 10. Code section 125.3 provides, in pertinent part, that the Board may request the
10 administrative law judge to direct a licensee found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Criminal Conviction)**

15 11. Respondent's licenses and certificates are subject to discipline pursuant to Code
16 section 2761, subdivision (f), in that Respondent has been convicted of the following crime that is
17 substantially related to the qualifications, functions, and duties of a registered nurse:

18 a. On or about November 8, 2011, in the Superior Court, County of El Dorado,
19 California, in the matter captioned *People vs. Gregory Dales*, 2010, Case No. P10CRF0226,
20 Respondent was convicted following his plea of no contest to a violation of Penal Code section
21 243.4, subdivision (c) (sexual battery by fraud), a felony. The circumstances of the crime are that
22 on or about May 4, 2010, Respondent willfully and unlawfully touched and rubbed Jane Doe's
23 vagina, for the purpose of sexual arousal, sexual gratification, and sexual abuse while Jane Doe
24 was not aware of the nature of the act because Respondent fraudulently represented to Jane Doe
25 rubbing and touching her vagina served a professional purpose.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Sexual Misconduct)

3 12. Respondent's licenses and certificates are subject to discipline pursuant to Code
4 section 726, on the grounds of unprofessional conduct, on the basis that while acting in the
5 capacity of his licensed and certificated profession at the Divide Wellness Center, Georgetown,
6 California, Respondent committed acts involving sexual abuse, misconduct, or relations with
7 patients or clients, as follows:

8 a. On or about May 4, 2010, during an appointment at the center, Respondent used his
9 hand and fingers to separate the outer and inner lips of Jane Doe's vagina and then rubbed her
10 clitoris, as set forth in paragraph 11(a) above.

11 b. On or about July 22, 2005, during an appointment at the center, Respondent placed
12 the open palms of his hands onto patient C.L.'s breasts in a sexualized manner and inconsistent
13 with a medical procedure.

14 c. On or about August 1, 2005, during an appointment with C.L. at the center,
15 Respondent placed his hand into C.L.'s underwear and touched C.L.'s vagina and rubbed her
16 clitoris. Respondent's actions and conduct with C.L. during this appointment were not for any
17 recognized medical purpose or procedure.

18 PRAYER

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Board of Registered Nursing issue a decision:

21 1. Revoking or suspending Registered Nurse License Number 369163, issued to
22 Gregory Lee Dales;

23 2. Revoking Public Health Nurse License Number 43545, issued to Gregory Lee Dales;

24 3. Revoking or suspending Nurse Practitioner Certificate Number 6962, issued to
25 Gregory Lee Dales;

26 4. Revoking or suspending Nurse Practitioner Furnishing Certificate Number 6962,
27 issued to Gregory Lee Dales;

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1 5. Ordering Gregory Lee Dales to pay the Board of Registered Nursing the reasonable
2 costs of the investigation and enforcement of this case, pursuant to Business and Professions
3 Code section 125.3; and,

4 6. Taking such other and further action as deemed necessary and proper.

5
6 DATED:

February 15, 2015

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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